

H. THE HEARING DECISION:**CLARIFYING INFORMATION:**

Once a hearing request has been scheduled, a decision must be issued by the ALJ.

FHC RESPONSIBILITIES:

When a decision is received, document the ACES narrative with the docket number, the type of decision, and the date of mailing. Include any other information necessary for a complete record.

1. Order of Dismissal:[WAC 388-08-440]

Issued when an appellant withdraws the hearing request or does not appear at the scheduled time for the hearing.

An appellant can request that an Order of Dismissal be vacated or canceled. If the Order of Dismissal is vacated, the hearing will be reinstated. Document the circumstances that led to the dismissal so that the department can respond in those cases.

a. Default/No Show:

If the hearing notice was correctly addressed and the appellant failed to appear, document the ACES narrative and file the decision with any related documents in the case record.

If the hearing notice was not correctly addressed or there is some other reason that the notice of hearing was not properly delivered, contact the OAH and provide that office with the correct address or other information needed to deliver the notice.

b. Withdrawal:

Document the ACES narrative and file the decision, with the request for withdrawal and any other related documents attached in the case record.

2. Initial Decision:

Issued by the ALJ who presided at the hearing. The initial decision becomes the final decision if it is not appealed by either party within 21 days of the date it is mailed.

The ALJ who conducted the hearing is responsible to write the initial decision and mail a copy to all parties. It is appropriate to follow up with the ALJ if the decision is delayed. No details of the case can be discussed before the decision is issued.

The Medical Assistance Administration (MAA) is responsible for hearings involving medical equipment or medical services. Refer questions about these hearing decisions to the MAA Appeals Manager, MS 45503. (See Special Procedures in this category.)

MAA shall not implement fair hearing decisions concerning medical procedures, medical equipment, or dental services until a final order is issued. The MAA Appeals Manager will coordinate these cases.

3. When the department decision is reversed, immediately:
 - a. Authorize benefits for an applicant effective with the date of eligibility determined in the decision.
 - b. Reinstate benefits for a recipient at the level paid prior to the hearing request, or at the level determined correct by the initial decision.
 - c. Adjust overpayments or take any other action addressed in the initial decision.
4. When the department decision is affirmed, immediately
 - a. Terminate continued assistance. Adequate notice must be provided to the appellant. Advance notice is not required.
 - b. Review the period of continued assistance, and establish overpayments as appropriate.
 - c. Distribute the decision to other offices or divisions (OFR, WorkFirst Division, etc.) as appropriate.

5. Petition for Review of Initial Decision [see WAC 388-08-464 for a complete text of the rule including applicable time frames]

The CSO is responsible for filing a petition to review in cases involving public assistance, cash, food assistance, or eligibility for medical assistance.

The Medical Assistance Administration (MAA) is responsible for filing petitions for review in cases involving medical equipment or medical services. The MAA Appeals Manager at MS 45503 will coordinate those cases .

6. CSO Petition for Review:

- a. After implementing the initial decision, determine if a review is appropriate:

- Consult with CSO supervisors or administrator as appropriate
- Consult with regional trainers or program staff if necessary
- See WAC 388-08-466, which gives a full explanation of the review judge's authority.

- b. If the decision is made to petition for a review of the initial decision prepare a memorandum from the CSOA to the Board of Appeals, MS 45803 including:

- Appellant's name and docket number,
- All areas in which the department believes the ALJ erred. See WAC 388-08-466(2) for the review standard. The review judge usually only addresses areas that have been raised in the petition. Refer to findings of fact and conclusions of law by the number assigned in the decision.
- Cite WAC's, findings of fact or evidence in the record that support the department argument.
- New evidence which affects the decision, and could not have been provided by the CSO at the hearing with reasonable diligence.
- A request for the review judge to find in the department's favor.

- c. Refer to WAC 388-08-464 for complete instructions regarding distribution

and time frames for a petition.

7. Appellant petition for review:

- a. Do not reinstate continued benefits pending a review of the initial decision requested by the appellant.
- b. Review the appellant's petition to determine if a response is appropriate. A response may not be required if the appellant raises issues which are irrelevant or which are outside the authority of the ALJ, e.g., issues relating to the behavior of department workers.
- c. If a response is required, prepare a memorandum from the CSOA to the Board of Appeals, MS 45803, including:
 - The appellant's name and the docket number,
 - A response which speaks only to the issues raised by the appellant,
 - Argument which supports the finding in the initial decision.
- d. Refer to WAC 388-08-464 for complete instructions regarding distribution and time frames for a response to a petition for review.

8. Receipt of Review Decision:

- a. Implement the review decision immediately.
- b. See WAC 388-08-470 to determine if a request for reconsideration is appropriate.
- c. If a reconsideration is appropriate, prepare a memorandum from the CSOA to the Board of Appeals, MS 45803 including the specific reason why the department does not agree with the review decision

9. Judicial Review:

The appellant has the right to request a review of the final agency decision in superior court. Instructions regarding requesting judicial review are attached to the

review decision. If an appellant asks about a judicial review, they should be advised to seek legal counsel and referred to the local legal services office.